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Sprint lost revenue, lost customers, suffered damage to its reputation, and incurred increased operating expenses. Id., at 13.

29. ACSI similarly testified that it had experienced significant problems in obtaining unbundled loops from BellSouth, and that its customers had experienced severe service disruptions, including disconnection of service and lack of number portability. Murphy Testimony, at 11-12. As a result, ACSI had to hold back customer orders. Id., at 13. Moreover, despite BellSouth's contractual commitment to "cut over" loops within a 30 minute window, with interruption of service for less than five minutes, "[c]utover intervals of over two hours are still routine occurrences." Id., at 13-14. Further, ACSI also experienced "extensive outages across virtually all of its customers in Columbus, Georgia due to a failure of BellSouth's number portability systems." Id., at 14.

30. Faced with this sworn testimony that BellSouth had impaired the ability of new entrants to compete, BellSouth proposed -- and the SCPSC adopted -- the conclusion that such testimony does not "rise to the level of proof." SCPSC SGAT Order at 59. More astonishingly, the SCPSC declared that even if such testimony could be considered evidence, it was irrelevant:

Even if there were actual proof in this record of inferior service by BST, this proof would be irrelevant to BST's compliance with its duties under Sections 251, 252(d) and the competitive checklist to make [sic] functions, capabilities and services available to CLECs. No one disputes that the issue of service quality is an extremely important one; it simply has no place in this proceeding.

SCPSC SGAT Order at 59-60 (emphasis added).

31. The SCPSC's conclusion that service quality "has no place in [a

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Section 271] proceeding" is plainly wrong. The competitive checklist clearly requires a finding that, at the time of its application, the BOC is providing interconnection, access to unbundled network elements and resale "in accordance with" the requirements of Sections 251 and 252 including the "nondiscrimination" requirement. 47 U.S.C.

§ 271(c)(2)(B)(i-ii). The SCPSC does not dispute that issues of service quality are relevant to these requirements but contends -- incorrectly -- that they do not become so until after interLATA authority is granted.¹¹

C. The "Functional Availability" of Interconnection, Unbundled Network Elements, and Resale Services

32. The SCPSC SGAT Order adopts verbatim BellSouth's proposed finding that BellSouth had technical service descriptions in place for interconnection, UNEs, and resale services. SCPSC SGAT Order, at 30, 32, 43, 45, and 53. The SCPSC SGAT Order further found that BellSouth had tested the availability of UNEs and resale services. Id., at 42. But the SCPSC did not and could not have reviewed these technical descriptions or test results because they were never entered into the record. Rather, the SCPSC, in adopting BellSouth's order, made these determinations based on no more than the testimony of a BellSouth witness that such technical service descriptions and test results existed. Under cross-examination, this witness admitted that no technical service

¹¹ According to the SCPSC SGAT Order, the provision of discriminatory access and interconnection is "irrelevant," because section 271(d)(6) of the Act provides for an expedited complaint process if a BOC ceases complying with its obligations under the competitive checklist after it has received in-region, interLATA authorization. SCPSC SGAT Order at 60.

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descriptions were placed into evidence by BellSouth (testimony of Keith Milner, BellSouth Telecommunications, SCPSC Docket No. 97-101-C, at Vol. 3, p. 73 (July 8, 1997) ("Milner Testimony")), and that the test results were included in binders (id. at 119) that were not admitted into evidence in the state 271 proceeding. SCPSC SGAT Order, at 67-68.

33. Moreover, Mr. Milner made clear in his testimony that the "testing" conducted by BellSouth related only to whether a single test order could be provisioned, maintained and billed by BellSouth. It did not encompass whether BellSouth could or would provide CLECs access to such elements or services in a nondiscriminatory manner. Milner Testimony, Vol. 3, at 124, 144. Further, Mr. Milner candidly admitted that BellSouth could not provide mechanized billing for the unbundled local switching network element. Id., at 141-42.

34. Further, AT&T and other CLECs testified that, in fact, the items required by the competitive checklist were not being provided or generally offered by BellSouth. In addition to BellSouth's failure to provide nondiscriminatory access to its operations support systems, AT&T testified regarding the problems it was having in obtaining two-way trunking from BellSouth as required by its interconnection agreement, because BellSouth was insisting that this matter had to be handled through the bona fide request process. Prefiled Testimony of John Hamman, AT&T, Docket No. 97-101-C, at 12-13 (SCPSC, Jun. 20, 1997). Mr. Hamman also testified, among other things, that BellSouth could not provision combinations of unbundled network elements to AT&T as

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required by the Act and the Commission's Regulations, that BellSouth had refused to provide direct routing to AT&T, and that BellSouth would not provide CLECs access to all the features and functionalities of the local switch. Id., at 20-21, 32. As set forth above, ACSI and Sprint testified that BellSouth was not meeting the generous intervals in their interconnection agreements for the provision of unbundled loops, and that BellSouth's provision of such loops and interim number portability was so deficient that their customers had suffered significant service outages. As a result, both ACSI and Sprint had been unable to provide competitive service and had lost customers and goodwill. Finally, the South Carolina Consumer Advocate testified that the SCPSC could not verify compliance with the competitive checklist "based on the evidence presented by BellSouth," and that allowing BellSouth to provide in-region, interLATA service "without full compliance with Section 271, will perpetuate the local exchange monopoly." Prefiled Testimony of Allen G. Buckalew, on behalf of South Carolina Consumer Advocate, Docket No. 97-101-C, at 6, 10 (SCPSC, Jun. 1997).

35. Yet, despite BellSouth's failure to produce evidence demonstrating its nondiscriminatory provision of access to UNEs and resale services, and despite the testimony presented by AT&T, ACSI and Sprint that BellSouth was not in compliance with the competitive checklist, the SCPSC SGAT Order reversed the burden of proof and found BellSouth to be in compliance, stating inaccurately that "AT&T, MCI, and others . . . offered no evidence to dispute that BST has, in fact, been providing the checklist items in substantially the same time and manner as it does for its retail operations." SCPSC

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SGAT Order, at 29.

D. Nondiscriminatory Access to BellSouth's OSS

36. The BellSouth-drafted order adopted by the SCPSC found that BellSouth was providing access to its OSS that is substantially the same as, and in many cases better than, that which it provides to personnel supporting BellSouth's retail customers. SCPSC SGAT Order at 33. In adopting verbatim this BellSouth-proposed finding, the SCPSC ignored the fact that there was almost no practical experience involving CLEC use of BellSouth's primary pre-ordering interface, LENS, or its primary ordering interface, EDI. At the time of the hearing, less than ten orders using LENS had been placed in South Carolina, and throughout BellSouth's nine-state region less than a thousand orders had been placed via LENS. Testimony of William N. Stacy, BellSouth, SCPSC, Docket No. 97-101-C, Vol. 3, at 61 (July 8, 1997) ("Stacy Testimony"). Further, AT&T was the only CLEC that had completed service readiness testing for EDI. Id., at 69. Despite this lack of practical experience, BellSouth submitted no specifications or test results to prove the nondiscriminatory nature of access to its operational support systems. Testimony of Gloria Calhoun, BellSouth, SCPSC, Docket No. 97-101-C, Vol. 1, at 254, Vol. 2 at 35, 69-70, 74 (July 7, 1997) ("Calhoun Testimony"); Stacy Testimony, Vol. 3, at 60, 77-78.

37. Moreover, BellSouth's own testimony at the state 271 hearing established that it does not provide the required nondiscriminatory access to its OSS. For example, BellSouth witnesses testified that CLECs using LENS are required to enter data

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twice and that such re-entry takes additional time. Calhoun Testimony, Vol. 1 at 271.

See also Stacy Testimony, Vol. 3, at 77-78 (system response time is only a portion of the time it would take to generate an order). Further, BellSouth has not attempted to determine how long it would take a CLEC to place an order using LENS compared to the length of time a BellSouth representative would need to place an identical order. Stacy Testimony, Vol. 3, at 59.

38. BellSouth's witnesses also identified inherent deficiencies in the Inquiry Mode of LENS that would be experienced by those CLECs that use LENS for pre-ordering and EDI for ordering – the use of the interfaces that BellSouth recommends, and which BellSouth anticipates will be used for 80% of CLEC orders. Calhoun Testimony, Vol. 2, at 58. For example, when a CLEC accesses BellSouth's OSSs using LENS' inquiry mode, the CLEC cannot access the full functionality of BellSouth's Direct Order Entry Support Applications Program (DSAP) and thus, unlike BellSouth's marketing representative, does not get a firm calculated due date. Calhoun Testimony, Vol. 2, at 66; Calhoun Testimony, Vol. 1, at 270 (due dates are different depending on which mode of LENS the CLEC uses).

39. Similarly, a CLEC seeking to obtain pre-ordering information via the LENS inquiry mode concerning a new customer's street address, the available features and functions in the serving central office, telephone numbers available for assignment, and installation dates, must validate the customer's street address four times – once to obtain each piece of information. Calhoun Testimony, Vol. 2, at 60-61. By contrast, the

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system used by BellSouth's representatives integrates pre-ordering and ordering functions so that the service order is automatically populated by the pre-ordering system. Calhoun Testimony, Vol. 2, at 58.

40. The Firm Order mode of LENS also does not provide functionality at parity with that enjoyed by BellSouth's representatives (and BellSouth's customers). Thus, if a BellSouth customer seeks to change an order, e.g., to add another line or new service feature, the BellSouth representative can change the existing order while the customer is on the line. Calhoun testimony, Vol. 2, at 25. By contrast, a CLEC using either LENS or EDI cannot do so. Id., Calhoun Testimony, Vol. 2, at 72. With LENS, a CLEC can only change the due date of the order or cancel the order in its entirety. Calhoun testimony, Vol. 2, at 72. In addition, LENS states that a premises visit is required even for an order to convert service "as is," which require only a software change. Calhoun Testimony, Vol. 2, at 20-21. Further, orders for unbundled network elements submitted via LENS will be processed manually by BellSouth. Calhoun Testimony, Vol. 1, at 253-54, Vol. 2, at 21-22; Stacy Testimony, Vol. 3, at 70-71.

41. There was also testimony that in addition to the disparity between CLEC access to BellSouth's OSSs and that enjoyed by BellSouth's representatives, the primary pre-ordering interface is constantly changing and will continue to do so for the next six to nine months. Calhoun Testimony, Vol. 2, at 54. Information concerning these changes is communicated to CLECs via the LENS User Guides, the latest of which was issued over three months ago on June 17, 1997. Calhoun Testimony, Vol. 1, at 274.

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42. In sum, because it was based on nothing more than assertions by BellSouth, and was supported neither by evidence of commercial usage, inter-company testing, or even a review of results of intra-company testing, the SCPSC's "findings" regarding OSS should be given no weight.¹²

E. Rates for Unbundled Network Elements and Resale

43. The "finding" in the SCPSC's Order that the rates in BellSouth's SGAT for unbundled network elements and interconnection are based on cost and comply with the requirements of Section 252(d)(1) are not supported by evidence in the record, and are in fact contrary to prior SCPSC findings. The rates in the SGAT come from the AT&T-BellSouth arbitration proceeding. Many of those interim rates came, in turn, from an interconnection agreement that BellSouth had negotiated with ACSI, and from BellSouth's tariffs. In the AT&T arbitration proceeding, the SCPSC adopted these rates for "interim" purposes, and ordered BellSouth to provide "verifiable cost studies" which it would consider in a separate proceeding. SCPSC Arbitration Order at 15. The SCPSC did not find in the AT&T arbitration proceeding, or in any other proceeding, that any of those rates complied with the requirements of Section 252(d)(1).

44. BellSouth has since submitted cost studies in the SCPSC's cost

¹² Moreover, AT&T submitted extensive testimony regarding the problems it was having accessing BellSouth's operations support systems and demonstrating that BellSouth, in fact, was not providing nondiscriminatory access as required by the Act and the Commission's regulations. See Prefiled Testimony of Jay Bradbury, Docket 97-101-C (SCPSC, Jun. 20, 1997).

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proceeding, but the SCPSC has not issued any findings in that proceeding, and hearings are not scheduled to begin until December 1997. BellSouth did not enter its cost studies into the record of the SGAT/Section 271 proceeding, nor rely on those studies. At the hearing, AT&T and MCI pointed out the SCPSC had never found the rates included in the SGAT to be cost-based, and submitted affirmative evidence demonstrating that they did not satisfy the Act. See Prefiled Testimony of Don J. Wood, on behalf of AT&T and MCI, Docket 97-101-C, at 14-20 (SCPSC, Jun. 20, 1997). But BellSouth stood by its position that since the SCPSC had approved the "interim" rates in the context of the AT&T arbitration proceeding, nothing more was required. Nevertheless, and despite its refusal to do so previously, the SCPSC SGAT Order adopts BellSouth's proposed findings and conclusions that its SGAT rates comply with the Act.¹³ The order includes minimal explanation, and no review of the record, since there was nothing in the record to review.

45. During the proceeding on its SGAT, BellSouth followed a similar approach with respect to the wholesale rate for services subject to resale. That is, BellSouth used the 14.8% discount adopted by the SCPSC for purposes of the arbitrated AT&T-BellSouth interconnection agreement. BellSouth did not submit evidence

¹³ The BellSouth-drafted order does not contain any explanation for its findings that the SGAT rates taken from BellSouth's tariffs are cost-based. With respect to the rates derived from the ACSI-BellSouth negotiated agreement, the order merely asserts that such rates "certainly were not set by the parties without reference to the cost of the services to be provided." SCPSC SGAT Order, at 55.

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supporting this discount in the SGAT/Section 271 proceeding.¹⁴

46. The avoided cost discount was adopted by the SCPSC at its agenda session at which the commissioners voted on issues in the AT&T-BellSouth arbitration. To the best of my knowledge, there is no transcript of the meeting. I attended and clearly recall the events of that meeting, however. At the meeting, one of the commissioners made a recommendation that the SCPSC adopt the "actually avoided" cost methodology proposed by BellSouth (and reject the "reasonably avoidable" cost methodology adopted in the Local Competition Order), and establish a wholesale discount of 14.8%. Another commissioner then asked if this would be "the lowest [discount] in the region?" The commission who made the recommendation responded that it was "probably the lowest in the country." The commissioner then stated that this was "Good." The first commissioner then stated "Yes," and the other commissioners nodded approvingly.

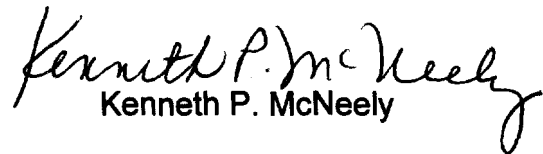
CONCLUSION

47. For the reasons set forth above, the Commission should accord no weight to the SCPSC SGAT Order.

¹⁴ As explained in the affidavit of Patricia McFarland, submitted herewith, that discount does not comply with the Act.

I declare under penalty of perjury that the foregoing is true and accurate
to the best of my knowledge and belief.

Executed on October 16, 1997.


Kenneth P. McNeely

SUBSCRIBED AND SWORN TO BEFORE ME this 16 day of October
1997.



Notary Public

My Commission Expires: Notary Public Gwinnett County, Georgia
My Commission Expires March 14th, 1999

ATTACHMENT 1

BEFORE**THE PUBLIC SERVICE COMMISSION OF****SOUTH CAROLINA****MARCH 10, 1997****DOCKET NO. 96-358-C - ORDER NO. 97-189**

IN RE: PETITION OF AT&T COMMUNICATIONS)	
OF THE SOUTHERN STATES, INC. FOR)	ORDER
ARBITRATION OF AN INTERCONNECTION)	ON
AGREEMENT WITH BELLSOUTH TELE-)	ARBITRATION
COMMUNICATIONS, INC.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Petition ("Petition") of AT&T Communications of the Southern States, Inc. ("AT&T") for arbitration of an interconnection agreement with BellSouth Telecommunications, Inc. ("BellSouth") (AT&T and BellSouth are herein collectively known as the "Parties"). The Petition was filed pursuant to the Telecommunications Act of 1996 (the "Act") (47 U.S.C.A. §252 et seq.). AT&T filed its Petition on or about November 15, 1996, pursuant to §252 of the Act. BellSouth and AT&T had begun negotiations on June 10, 1996. Upon the filing of the Petition, the Commission established a procedure for the arbitration (See Commission Order No. 97-40) and properly noticed the docket and the pending hearing. The Consumer Advocate for the State of South Carolina (the "Consumer Advocate"), the South Carolina Cable Television Association ("SCCTA"), and BellSouth Advertising and Publishing Company

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("RAPCO") were allowed to participate in the arbitration (these parties were not Parties of Record or Intervenors; see Commission Order Nos. 97-48 and 97-69). The Parties in this matter filed testimony and a list of outstanding issues to be arbitrated by the Commission.

An arbitration hearing was held on this matter February 3 - 5, 1997, in the Commission's hearing room. The Honorable Guy Butler, Chairman, presided. Catherine D. Taylor, Staff Counsel, assisted in the examination during the hearing. Francis P. Hood, Esquire, Kenneth P. McNeely, Esquire, and Steve A. Matthews, Esquire, represented AT&T. Harry M. Lightsey, III, Esquire, William F. Austin, Esquire, William Ellenberg, Esquire, and Edward Rankin, Esquire, appeared on behalf of BellSouth. Elliott F. Blum, Jr., Esquire, represented the Consumer Advocate; B. Craig Collins, Esquire, represented SCCTA; and Palmer Freeman, Jr., Esquire, represented RAPCO. The three hearing participants, pursuant to Commission Order, were not allowed to present testimony or witnesses in the proceeding.

AT&T Communications presented the following witnesses:

- (1) Joseph Gillan
- (2) Dr. David L. Kaserman
- (3) Richard Guepe
- (4) Art Lerma
- (5) John M. Hamman
- (6) Wayne Ellison
- (7) Don J. Wood
- (8) William J. Carroll
- (9) Deborah J. Winegard

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BellSouth presented the following witnesses:

- (1) Alphonso J. Varner
- (2) Robert C. Scheye
- (3) Dr. Steve G. Parsons
- (4) Walter S. Reid
- (5) W. Keith Milner
- (6) D. Daonna Caldwell
- (7) Gloria Calhoun

At the beginning of the arbitration, Counsel for BellSouth informed the Commission that the issues for which Ms. Calhoun submitted testimony had been settled by the Parties, and, therefore, Ms. Calhoun did not offer her testimony for the record.

Section 252 of the Act provides for voluntary negotiations between requesting carriers and incumbent local exchange carriers. If parties are unable to reach agreement on the terms of an appropriate interconnection agreement, then either party may request arbitration by the State Commission. Pursuant to §262(b)(4) of the Act, this Commission is to resolve each issue set forth before it.

BellSouth and AT&T provided to the Commission a listing of the outstanding issues for arbitration by the Commission. Accordingly, the Commission has ruled upon each of these issues in the identical order of the listing. The outstanding issues and the Commission's decision upon each are set forth below.

(1) Must BellSouth offer for resale to AT&T at wholesale rates all of BellSouth's retail telecommunications services? What services provided by BellSouth, if any, should be

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excluded from resale?

The services in dispute on this issue are: promotions, non-recurring services, contract service arrangements ("CSAs"), Lifeline/Linkup, and 911/E911/W11. The Parties have reached an agreement upon the issue of reselling grandfathered services. AT&T argues that requiring BellSouth to make all services defined by the Act available for resale will benefit South Carolina consumers. Such action by the Commission would provide South Carolina consumers the ability to select the carrier of their choice without loss of any services to which they presently subscribe.

The Commission adopts AT&T's position on this issue with one exception. The Commission holds that the Act requires BellSouth to offer for resale to AT&T at wholesale rates all telecommunications services that BellSouth provides at retail to non-carrier subscribers. However, contract service arrangements ("special assemblies") should not receive a further discount below the contract service arrangement rate. AT&T should receive the same rate as the CSA customer. AT&T will still be allowed to package the service with other services in order to compete with BellSouth or other local entrants.

Resale of these services will insure that all BellSouth customers will have choices for all services presently received from BellSouth. The Act indeed permits reasonable and non-discriminatory conditions or limitations on the resale of telecommunications services, and we therefore

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condition our ruling with respect to the CSAs. CSAs are designed to respond to specific competitive challenges on customer-by-customer basis. As BellSouth argued, the contract price for these services has already been discounted from the tariffed rate in order to meet competition.

(2) What terms and conditions, including use and user restrictions, if any, should be applied to resale of BellSouth services?

Until further order of this Commission, we hold that the present tariff restrictions for BellSouth services shall remain in place since there has been no showing that the restrictions set forth in BellSouth's tariffs are unreasonable and/or discriminatory. The Commission allows BellSouth to apply any use or user restriction or term or condition found in the relevant tariff of the service being resold when it resells that service to wholesale customers. Resale of BellSouth's retail services shall be subject to the terms and conditions currently contained in the resale service tariffs. Upon Petition to this Commission, AT&T may challenge any terms and conditions which it contends are unreasonable or discriminatory. No new restrictions have been proposed for or will be implemented upon the resold services. Cross class selling is specifically prohibited. The Commission also adopts the interLATA joint marketing restriction found in the Act (§271(a)(1)).

(3) What are the appropriate standards, if any, for performance metrics, service restoration, and quality

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assurance related to services provided by BellSouth for resale and for network elements provided to AT&T by BellSouth?

This Commission finds that it is not necessary to establish additional performance and service measurements. This Commission already has service measurements in place. BellSouth must provide the same quality of services to AT&T that it provides to its own customers, as it has committed to do. AT&T has a right to submit complaints to the Commission should it feel that any service is not comparable. We believe that this decision comports with the Act and the FCC's Order. Within ninety (90) days of the approval of the agreement, BellSouth and AT&T must meet to develop additional measurements, if needed.

(4) Must BellSouth take financial responsibility for its own actions in causing, or its lack of action in preventing, unbillable or uncollectible AT&T revenues?

The Commission adopts AT&T's position on this issue. BellSouth is the only Party in the position to prevent the errors that lead to unbillable or uncollectible revenue. Thus, consistent with the Act, BellSouth should compensate AT&T for revenue losses caused by BellSouth's errors. A new entrant's inability to receive all appropriate revenues would substantially impair the competitive market. This Commission lacks the jurisdiction or legislatively-granted authority to impose penalties or fines under this issue.

(5) Should BellSouth be required to provide real-time and

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interactive access via electronic interfaces as requested by AT&T to perform the following: pre-service ordering, service trouble reporting, service order processing and provisioning, customer usage data transfer, and local account maintenance? If this process requires the development of additional capabilities, and costs are incurred, how should those costs be recovered? (The Parties announced at the hearing that, with the exception of the cost recovery issue, BellSouth and AT&T have resolved this issue.)

AT&T offers in its Brief that the costs associated with implementing electronic interfaces should be shared equitably among all parties who benefit from those interfaces. AT&T's position on this issue is adopted upon the following condition: The Party requesting the special arrangement for data access should pay for the developmental cost for providing the access. However, if other Parties request the same or similar access and benefit from the development, these other parties should share the cost, and AT&T would then be refunded a proportionate share of the costs. We conclude that the system and design modifications necessary to provide new entrants the service and capabilities such as those requested by AT&T in this proceeding are reasonably necessary to establish the infrastructure necessary to accomplish the goals of the Act and will ultimately benefit many competing Local Exchange Carriers.

(6) When AT&T resells BellSouth's local exchange service, or purchases unbundled local switching, is it technically

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feasible or otherwise appropriate to route operator services and directory assistance calls directly to AT&T's platform?

AT&T requests customized routing of operator and directory assistance calls to provide South Carolina consumers with convenient access to their chosen local service provider in order to avoid customer confusion. The Commission adopts AT&T's position on this issue. BellSouth shall route AT&T customers to AT&T for operator and directory assistance services. Therefore, a customer will be able to have his or her calls routed to the operators of such customer's chosen local service provider. Line class codes shall be utilized as recommended by AT&T on a first come, first serve basis. BellSouth and AT&T are encouraged to continue their efforts to develop a long-term Advanced Intelligent Network ("AIN") based solution to the selective routing issue.

(7) Must an incumbent local exchange carrier brand services sold or information provided to customers on behalf of AT&T? (The only remaining aspect of this issue is the branding of operator services and directory assistance).

This Commission finds that branding is technically feasible and should be implemented. Branding of services is important to consumers because it eliminates customer confusion. We order BellSouth to brand any operator and directory assistance services with the AT&T brand where BellSouth cannot route calls because of technical limitations or AT&T chooses not to require direct routing to its own operator and directory assistance platform. However, if

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BellSouth finds that it is not possible to implement branding for AT&T, BellSouth must revert to generic branding for all local exchange providers including itself.

(8) (Original issue number 9) Must BellSouth allow AT&T to appear on the cover of BellSouth's directory in a manner at least equal to BellSouth's appearance?

This issue is not subject to arbitration. SAPCO is not jurisdictionally subject to arbitration under the Act. Directory publishing is a private matter which should be negotiated between AT&T and SAPCO or another publisher. BellSouth has no ability to control or direct the placement of names or logos on directory covers. Therefore, AT&T's request is denied.

(9) (Original issue number 14) Must BellSouth provide AT&T with: (a) unmediated access to AIN triggers, or utilize the same mediation device that it requires AT&T to use?

This Commission concludes that AT&T's position on this issue shall be adopted. This Commission seeks to encourage the development of an intelligent network in South Carolina for the benefit of South Carolina consumers. The Commission therefore orders BellSouth to unbundle access to its AIN triggers for AT&T in the same manner in which BellSouth uses AIN triggers for services to its own customers. In reaching this result, we find that there is no need for a mediation device. The use of a mediation device may cause AT&T customers to experience an increase in post-dial delay.

(b) routing capabilities to AT&T's operator

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services platform? Operator assistance meets the definition of a "network element" because these services are "capabilities" used in the transmission, routing or other provision of a telecommunications system. AT&T's request to purchase branded operator services and to have AT&T customers routed to AT&T operators is valid and reasonable. We believe such routing of operator services will enhance competition in South Carolina.

(c) access to customers' inside wiring by allowing AT&T to disconnect and ground BellSouth's network interface device ("NID")? BellSouth has agreed to permit AT&T to attach its wire to BellSouth's NIDs with excess capacity. AT&T witnesses testified that, when attaching to NIDs without excess capacity, AT&T believes it could disconnect and properly ground the BellSouth wire. It is within this Commission's discretion, under the FCC's Order, as to whether a direct connection between the new entrant's local loop and the incumbent LECs' NID is technically feasible. We believe that this is technically feasible. We therefore order that AT&T may disconnect and ground BellSouth's wire and attach AT&T's wire directly to BellSouth's NID. Further, we hold that AT&T should be permitted to attach its wire to NIDs used in business settings which are similar to residential service NIDs. However, AT&T must assume full liability for its actions and for any adverse consequences that may result.

(10) (Original issue number 15) Should AT&T be allowed

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to combine unbundled network elements in any manner it chooses, including recreating existing BellSouth services? If AT&T is allowed to combine unbundled elements, what is the appropriate pricing for recombined elements?

AT&T may recombine unbundled network elements in any manner it chooses. However, the rebundling of network elements to produce an existing retail service is a pricing issue and is under the jurisdiction of this Commission. If network elements are rebundled to produce an existing tariffed retail service, the appropriate price to be charged to AT&T by BellSouth is the wholesale price (discounted retail price). AT&T should be required to pay to BellSouth the applicable wholesale rate of the replicated service and not just the rates for the unbundled network elements that are purchased.

Finally, the Commission concludes that vertical features inherent in the unbundled local switching element are themselves retail services and, thus, should be priced at the retail tariffed rate less the appropriate discount and not priced as part of the switching component.

(11) (Original issue number 18) Must BellSouth make rights-of-way available to AT&T on terms and conditions equal to that it provides itself for the following situations:

(a) What is the appropriate means to provide AT&T the access to ducts where an emergency situation occurs?

b) Whether BellSouth should allow AT&T to leave a reasonable amount of equipment in place for 48 hours while it places its

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facilities in BellSouth's right-of-way, provided space is available? (c) Whether BellSouth should be required to provide AT&T copies of environmental reports, if any, on rights-of-way AT&T will be accessing?

The Commission adopts AT&T's position on this issue. BellSouth shall provide to AT&T equal and non-discriminatory access to rights-of-way, conduits, poles, pole attachments and other pathways. Non-discriminatory access is required to promote competition. AT&T has proposed a common emergency duct and inner-duct for use in emergency service restoration situations. AT&T also has proposed a priority restoration schedule in an emergency situation to restore service first to fire, police, and/or hospital facilities and next to restore service to the facilities impacting the greatest number of people. AT&T seeks space in manholes for racking and storage of up to fifty feet of cable and space for a reasonable amount of equipment necessary for installing and/or splicing fiber for a period not to exceed 48 hours, where space is available. Additionally, AT&T requests that BellSouth advise it as to whether an environmental, health and safety inspection has been performed within ten days of AT&T's application for a license. The Commission believes that AT&T's requests are reasonable and result in non-discriminatory access as intended by the Act. Therefore, the Commission orders BellSouth to provide AT&T access to rights-of-way, conduits, pole attachments, and any other pathways on terms and conditions as requested by AT&T (as

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described above).

(12) (Original issue number 19) Must BellSouth provide AT&T with access to BellSouth's dark fiber?

The Commission defines dark fiber in this proceeding as "unused transmission media". We conclude that dark fiber is a network element because it is a facility or equipment used in the provision of a telecommunications service. Provision of unused transmission media will facilitate the development of competition. Denial of access to such unused facilities to AT&T and other new entrants may delay their entry into the market to provide competitive services to South Carolina consumers. The Commission therefore adopts AT&T's position on this issue and orders BellSouth to provide AT&T with access to BellSouth dark fiber.

(13) (Original issue number 21) Must appropriate wholesale rates for BellSouth services subject to resale equal BellSouth's retail rates less all direct and indirect costs related to retail functions? (See Below)

(14) (Original issue number 22) What are the appropriate BellSouth wholesale rates?

The Commission considers together these two issues regarding BellSouth wholesale rates. We adopt BellSouth witness Walter Reid's methodology with some exceptions. We do not agree that all of the operator services (such as call completion and number services) costs would continue to be experienced. The Commission believes that 30% of the costs would be avoided due to the direct routing of calls to AT&T